

Appln. No. 09/846,480
Amendment dated October 24, 2005
Response to Office Action dated May 23, 2005

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Upon entry of this Amendment, claims 51-53 and 55-74 will be pending.

Applicant appreciates the Examiner's indication that dependent claim 72 includes allowable subject matter. Accordingly, claim 72 is written in independent form as new claim 74, and should be allowable.

The Examiner has also rejected claims 51-53, 55-58, 60-66 and 73 under 35 U.S.C. § 101 as allegedly claiming the same invention as that of claims 14-27 and 31 of issued related U.S. Patent No. 6,807,165 (the '165 patent). In response to this rejection, claim 54 is being canceled, and independent claims 51, 64 and 73 are being amended as indicated above. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

In addition, dependent claim 54 is rejected as being unpatentable under the judicially created doctrine of obviousness-type double patenting in view of claim 14 of the '165 patent in view of U.S. Patent No. 6,072,797 to Fletcher. Also, dependent claim 59 is rejected as being unpatentable under the judicially created doctrine of obviousness-type double patenting in view of claim 14 of the '165 patent in view of U.S. Patent No. 6,868,075 to Narvinger. Furthermore, dependent claim 67-71 are rejected as being unpatentable under the judicially created doctrine of obviousness-type double patenting in view of claim 25 of the '165 patent in view of U.S. Patent No. 6,072,797 to Fletcher. These rejections are respectfully traversed.

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In the rejection of claim 54, the Examiner admits that claim 14 of the '165 patent does not recite generating information pertaining to the class of service (COS) being transmitted in generating information on the type of message being sent comprising the capability of reporting voice type, data type and/or video type class of service information. Nevertheless, for this feature, the Examiner relies on column 6, lines 55-58 of the Fletcher patent, and contends that it would be obvious to modify the apparatus defined in claim 14 of the '165 patent to identify the class of service in view of these teachings.

Applicant notes that as indicated above, this rejection is moot because claim 54 has been canceled. However, similar limitations have been added to independent claim 51 and therefore, this rejection will be addressed with regard to the limitations of amended independent claim 51.

To begin, Applicant respectfully submits that the Fletcher patent relates to a wired land network and not a multi-hopping wireless network. Therefore, Applicant respectfully submits that one skilled in the art would not have been motivated to modify the radio terminal as recited in claim 14 of the '165 patent in view of the Fletcher patent. Furthermore, Applicant respectfully submits that the Fletcher patent fails to specifically state that the class of service information can be voice type information, data type information and/or video type information as recited in amended independent claim 51. In addition, Applicant respectfully submits that the Fletcher patent fails to teach or suggest that subsequent data packets having the same type of class of service are transmitted to the same destination on the same path that was determined, as recited

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in amended independent claim 51. For all these reasons, Applicant respectfully submits that independent claim 51 and all of its dependent claims should be allowable.

Concerning the rejection of claim 59, Applicant notes that the Examiner admits that claim 14 of the '165 patent does not recite the inter-frame time gap as recited in this claim. Nevertheless, for this feature, the Examiner relies on the teachings of Figures 7-10 of the Narvinger patent.

However, Applicant respectfully submits that the Narvinger patent fails to teach or suggest the details of the class of service information as now recited in amended independent claim 51 from which claim 59 depends. Furthermore, Applicant respectfully submits that the Narvinger patent describes code division multiple access (CDMA) systems, not ad-hoc multi-hopping networks as recited in claim 59. Also, although the Narvinger patent may use the term "time gap" (TG), this type of "time gap" is not the same as an IFTG as recited in the rejected claims.

That is, as can be appreciated by one skilled in the art, several channels are transmitted on the same frequency at the same time in CDMA systems. When data from one channel is identified, the signal transmitted for all other channels has the effect of noise on the data. Therefore, creating silence (time gaps) in some channels, allows other channels to improve the quality of reception or to use higher compression rates without losing quality. For this reason, Narvinger makes a correlation between the data rate in some channels and the length of the silence periods (time gaps) in other channels. For example, column 9, lines 23-25 of the

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Narvinger patents states that as shown in FIGS. 7-10 and 12, the TG is preferably achieved by rate matching and not by a reduction of spreading factor (SF). In other words, transmission can occur during the TG on other channels, and the TG is *within a time frame*. On the contrary, as recited in dependent claim 58 from which claim 59 depends, *no signals are transmitted in an IFTG which is at the end of a time frame*.

For all these reasons, Application respectfully submits that independent claim 51, and all of its dependent claims, including claim 59, should be allowable over the '165 patent and the Narvinger patent.

Concerning the rejection of dependent claims 67-71, Applicant notes that the Examiner admits that claim 25 of the '165 patent does not recite an operation of determining a class of service (COS) of a call to be transmitted as is recited in dependent claim 67. However, for this feature, the Examiner again relies on the teaches of column 6, lines 55-58 of the Fletcher patent and contends it would have been obvious in view of these teachings to modify the system recited in claim 25 of the '165 patent to achieve the present invention as recited in dependent claims 67-71. Applicant respectfully disagrees.

In particular, Applicant respectfully notes that as indicated above, claim 64 is being amended to recite that the routing path that is determined matches the delay requirements of the class of service of data being transferred. Furthermore, as discussed above, Applicant notes that the Fletcher patent fails to teach or suggest that the class of service information can be video, voice and/or data. In addition, as discussed above, Applicant respectfully submits that the

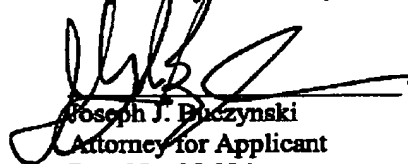
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Fletcher patent relates to a wired ground-based system, and not a wireless system as recited in the rejected claims. Therefore, applicant respectfully submits that one skilled in the art also would not have been motivated to modify the apparatus recited in claim 25 of the '165 patent in view of the teachings of the Fletcher patent.

For all these reasons, Applicant respectfully submits that independent claim 64, and all dependent claims, including dependent claims 67-72, should be allowable.

In view of the above, it is believe that the subject application is in condition for allowance, and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned to discuss this application at the number indicated below.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment (along with any documents referred to as attached or enclosed) is being transmitted by facsimile to the United States Patent and Trademark Office, Attention: Examiner Anh Vu H LY, Art Unit 2667, Facsimile Number 571-273-8300, on the date indicated.

Lois Ann Borlase
Printed Name

Lois Ann Borlase
Signature

Date: October 24, 2005